

OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK

April 29, 2004

55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30335
(404) 330-6033
FAX (404) 658-6103

Eckhart Blackert
Attorney at Law
17 Executive Park Drive
Suite 310
Atlanta, GA 30315

04-R-0561

RE: Rodney A. Davie, Jr.

Dear Attorney Blackert:

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on April 19, 2004. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the City Attorney's Office/Claims Division at (404) 330-6400.

Yours very truly,

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

CONSENT I

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 04L0012

Date: March 16, 2004

Claimant /Victim RODNEY A. DAVIE, JR.
 BY: (Atty) (Ins. Co.) Eckhart Blackert, Esq. MONTLICK & ASSOCIATES, P.C.
 Address: 17 Executive Park Drive, Suite 310, Atlanta, Georgia 30329
 Subrogation: Claim for Property damage \$ Bodily Injury \$ unspecified
 Date of Notice: 1/6/04 Method: Written, Proper X Improper
 Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
 Date of Occurrence 11/8/03 Place: 120 Anderson Avenue, NW (Anderson Park)
 Department PARKS, RECREATION & CULTURAL AFFAIRS Bureau: Recreation
 Employee involved Disciplinary Action:

NATURE OF CLAIM: Claimant alleges that he sustained bodily injuries when a drinking fountain fell on top of him as he attempted to drink from it. However, an investigation determined that the fountain was properly installed, initially, but an inspection conducted post incident showed that the heavy duty metal bolts had been ripped from the concrete base of the fountain by what appeared to be deliberate vandalism. The City was not on notice of said hazardous condition, thereby, making it immune from liability pursuant to O.C.G.A. 33-36-1.

INVESTIGATION:


Statements: City employee _____ Claimant _____ Others _____ Written _____ Oral _____
 Pictures _____ Diagrams _____ Reports: Police _____ Dept Report X Other X
 Traffic citations issued: City Driver _____ Claimant Driver _____
 Citation disposition: City Driver _____ Claimant Driver _____

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial
Improper Notice More than Six Months Other X Damages reasonable
City not involved Offer rejected Compromise settlement
Repair/replacement by Ins. Co. Repair/replacement by City Forces
Claimant Negligent City Negligent Joint Claim Abandoned

Respectfully submitted,

Respectfully submitted,


INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:


Pay \$ _____ Adverse ☒ Account charged: 1A01 _____ 2P01 _____ 2J01 _____ 2H01 _____
 Claims Manager: *[Signature]* Concur/date 03/17/04
 Committee Action: _____ Council Action _____

MONTLICK & ASSOCIATES, P.C.

ATTORNEYS AT LAW

17 EXECUTIVE PARK DRIVE • SUITE 310
ATLANTA, GEORGIA • 30329

Mailing Address:
P.O. BOX 95406 • ATLANTA, GEORGIA 30347-0406
TELEPHONE (404) 235-5000 • FACSIMILE (404) 321-3323

BURNS
01/06/04


December 30, 2003

ENTERED - 1-13-04 - SB
04L0012 - GWEN BURNS

City of Atlanta Parks & Rec.
Diane Mitchell, Claims Mgr.
Claims Department
68 Mitchell Street, Suite 4100
Atlanta, GA 30303

RE: Our Client: Rodney A. Davie, Jr.
Incident Date: November 8, 2003
Incident Location: Anderson Park

Dear Ms. Mitchell:

This firm has been retained to represent Rodney A. Davie, Jr. for injuries sustained in the above-referenced incident. It appears from our initial information that you are responsible for our client's injuries and damages.

You should notify your insurance company of this claim immediately and forward this letter to them. Failure to notify your insurance company could result in a denial of coverage.


Please also notify us of your insurance company's name and your policy number so that we may deal directly with them and minimize further inconvenience to you. If you did not have insurance at the time of this incident, please notify us of such fact in writing.

Thank you for your cooperation.

Very truly yours,

MONTLICK & ASSOCIATES, P.C.

BY:


Eckhart Blackert
Attorney at Law

LTR_1083:333102:ndls

cc: Rodney A. Davie, Jr.

04- R -0561

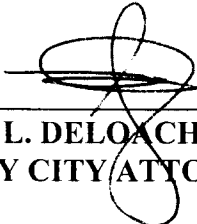
Entered -1-13-04 - sb
CL 04L0012 - GWENDOLYN BURNS

CLAIM OF: RODNEY A. DAVIE, JR.
through his attorney,
Eckhart Blackert, Esq.
Montlick & Associates, P.C.
17 Executive Park Drive
Suite 310
Atlanta, Georgia 30315

04- R -0561

For bodily injuries alleged to have been sustained when a
drinking fountain fell on November 8, 2003 at 120 Anderson
Avenue, NW.

THIS ADVERSED REPORT IS APPROVED

BY: 
JERRY L. DELOACH
DEPUTY CITY ATTORNEY

ADVERSE REPORT

PUBLIC SAFETY &

LEGAL ADMINISTRATION COMMITTEE

DATE: 3/30/04

CHAIR: H. S. Smith

Carl Smith

Clara Henslow

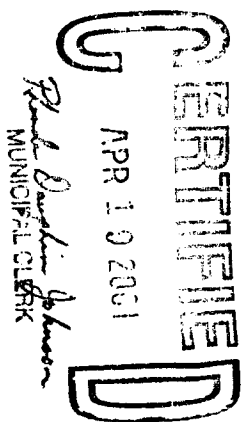
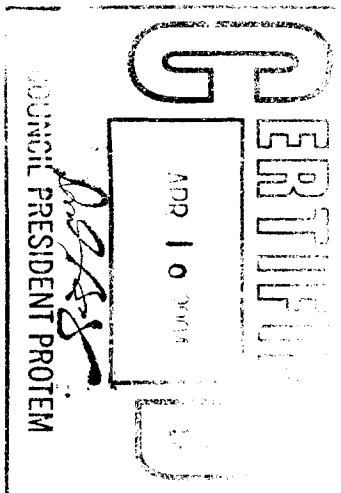
Phil Ford

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ADVERSED

APR 19 2004